

House File 206 - Introduced

HOUSE FILE _____
BY RANTS

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act limiting the liability of an alcoholic beverage licensee
2 or permittee for certain alcohol-related accidents resulting
3 in death or injury to a third person.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1541YH 83
6 rh/rj/8

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1 1 Section 1. Section 123.92, Code 2009, is amended to read
1 2 as follows:
1 3 123.92 CIVIL LIABILITY FOR DISPENSING OR SALE AND SERVICE
1 4 OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT) ==
1 5 LIABILITY INSURANCE == UNDERAGE PERSONS.
1 6 1. Any person who is injured in person or property or
1 7 means of support by an intoxicated person or resulting from
1 8 the intoxication of a person, has a right of action for all
1 9 damages ~~not to exceed two hundred fifty thousand dollars for~~
1 10 ~~each person incurring damages~~ actually sustained, severally or
1 11 jointly, against any licensee or permittee, whether or not the
1 12 license or permit was issued by the division or by the
1 13 licensing authority of any other state, who sold and served
1 14 any beer, wine, or intoxicating liquor to the intoxicated
1 15 person when the licensee or permittee knew or should have
1 16 known the person was intoxicated, or who sold to and served
1 17 the person to a point where the licensee or permittee knew or
1 18 should have known the person would become intoxicated.
1 19 2. If the injury was caused by an intoxicated person, a
1 20 permittee or licensee may establish as an affirmative defense
1 21 that the intoxication did not contribute to the injurious
1 22 action of the person. ~~The remedy provided by this section~~
1 23 ~~shall apply both prospectively, to actions filed on or after~~
1 24 ~~July 1, 1992, and retrospectively, to actions pending in trial~~
1 25 ~~or appellate courts prior to July 1, 1992.~~
1 26 3. Every liquor control licensee and class "B" beer
1 27 permittee, except a class "E" liquor control licensee, shall
1 28 furnish proof of financial responsibility by the existence of
1 29 a liability insurance policy in an amount determined by the
1 30 division.
1 31 4. Notwithstanding section 123.49, subsection 1, any
1 32 person who is injured in person or property or means of
1 33 support by an intoxicated person who is under legal age or
1 34 resulting from the intoxication of a person who is under legal
1 35 age, has a right of action for all damages actually sustained,
2 1 severally or jointly, against a person who is not a licensee
2 2 or permittee and who dispensed or gave any beer, wine, or
2 3 intoxicating liquor to the intoxicated underage person when
2 4 the nonlicensee or nonpermittee who dispensed or gave the
2 5 beer, wine, or intoxicating liquor to the underage person knew
2 6 or should have known the underage person was intoxicated, or
2 7 who dispensed or gave beer, wine, or intoxicating liquor to
2 8 the underage person to a point where the nonlicensee or
2 9 nonpermittee knew or should have known that the underage
2 10 person would become intoxicated. If the injury was caused by
2 11 an intoxicated person who is under legal age, a person who is
2 12 not a licensee or permittee and who dispensed or gave beer,
2 13 wine, or intoxicating liquor to the underage person may
2 14 establish as an affirmative defense that the intoxication did
2 15 not contribute to the injurious action of the underage person.
2 16 For purposes of this ~~paragraph subsection~~, "dispensed" or
2 17 "gave" means the act of physically presenting a receptacle
2 18 containing beer, wine, or intoxicating liquor to the underage
2 19 person whose actions or intoxication results in the sustaining

2 20 of damages by another person. However, a person who dispenses
2 21 or gives beer, wine, or intoxicating liquor to an underage
2 22 person shall only be liable for any damages if the person knew
2 23 or should have known that the underage person was under legal
2 24 age.

2 25 EXPLANATION

2 26 This bill limits the liability of an alcoholic beverage
2 27 licensee or permittee who sold and served intoxicating
2 28 beverages to a person who is subsequently involved in an
2 29 alcohol-related accident resulting in death or injury to a
2 30 third person, commonly referred to as the dram shop Act. The
2 31 bill provides a damage limitation for personal injury,
2 32 property damage, or loss of support of \$250,000 per person
2 33 incurring damages.

2 34 LSB 1541YH 83

2 35 rh/rj/8